MONTANA LEGISLATIVE HISTORY

Chapter 728 19 85

Bill H 739 S _____ Original bill & history ✓ C

H. Committee on State Administration			S. Committee on State Admin		
Hearing Date(s)	2/19	✓ C	Hearing Date(s)	3/28	✓ C
		C			C
		C			C
		C	exec	3/28	✓ C
Date Out	2/19	✓ C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

3/28	TRANSMITTED TO GOVERNOR		
4/02	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 332 EFFECTIVE DATE: 4/02/85		

HB 739 INTRODUCED BY IVERSON, HOLLIDAY, GALT
TRANSFER OF THE BOARD OF WATER WELL DRILLERS TO DEPT. NATURAL RESOURCES AND CONSERVATION

2/09	INTRODUCED		
2/09	REFERRED TO STATE ADMINISTRATION		
2/09	FISCAL NOTE REQUESTED		
2/15	FISCAL NOTE RECEIVED		
2/19	HEARING		
2/20	COMMITTEE REPORT-BILL PASS AS AMENDED		
2/20	STATEMENT OF INTENT ATTACHED		
2/21	2ND READING PASS	82	14
2/21	REREFERRED TO APPROPRIATIONS		
3/21	HEARING		
3/22	COMMITTEE REPORT-BILL DO PASS		
3/23	2ND READING PASS	92	0
3/25	3RD READING PASS	98	2
	TRANSMITTED TO SENATE		
3/26	REFERRED TO STATE ADMINISTRATION		
3/28	HEARING		
3/28	COMM REPORT-BILL CONCURRED AS AMENDED STATEMENT OF INTENT AMENDED		
3/29	ON MOTION RULES SUSPENDED PLACED ON 3RD READING 70TH DAY		
4/01	2ND READING CONCURRED	26	16
4/01	3RD READING CONCURRED	36	14
	RETURNED TO HOUSE WITH AMENDMENTS		
4/08	2ND READING AMENDMENTS CONCURRED	97	0
4/08	ON MOTION RULES SUSPENDED PLACED ON 3RD READING THIS DAY		
4/08	3RD READING AMENDMENTS CONCURRED	98	0
4/12	SIGNED BY SPEAKER		
4/15	SIGNED BY PRESIDENT		
4/17	TRANSMITTED TO GOVERNOR		
4/22	RETURNED WITH GOVERNOR'S AMENDMENTS		
4/23	2ND READING GOVERNOR'S AMENDMENTS CONCURRED	99	0
4/23	3RD READING GOVERNOR'S AMENDMENTS CONCURRED	94	4
	TRANSMITTED TO SENATE		
4/24	2ND READING GOVERNOR'S AMENDMENTS CONCURRED	47	0
4/25	3RD READING GOVERNOR'S AMENDMENTS CONCURRED	47	0
	RETURNED TO HOUSE		
5/01	SIGNED BY SPEAKER		
5/01	SIGNED BY PRESIDENT		
5/02	TRANSMITTED TO GOVERNOR		
5/13	SIGNED BY GOVERNOR		

INTRODUCED BY HOUSE BILL NO. 739 Iverson Holliday Tutt

A BILL FOR AN ACT ENTITLED: "AN ACT TRANSFERRING THE ADMINISTRATION OF THE BOARD OF WATER WELL CONTRACTORS FROM THE DEPARTMENT OF COMMERCE TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION; REDEFINING "WATER WELL CONTRACTOR" AND PROVIDING A DEFINITION OF "WATER WELL DRILLER"; PRESCRIBING ADDITIONAL DUTIES AND POWERS OF THE BOARD; REQUIRING THE ADOPTION OF WATER WELL CONSTRUCTION STANDARDS; REQUIRING A LICENSE FOR WATER WELL DRILLERS; INCREASING BOND REQUIREMENTS; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 37-43-102, 37-43-202, AND 37-43-302 THROUGH 37-43-306, MCA; REPEALING SECTION 37-43-103, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 37-43-102, MCA, is amended to read:

"37-43-102. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Board" means the board of water well contractors provided for in [2-15-1862].

(2) "Department" means the department of ~~commerce~~ natural resources and conservation provided for in Title 2, chapter 15, part ~~18~~ 33.

(3) "Water well" means an excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed and intended for the location, diversion, artificial recharge, or acquisition of groundwater. The term does not include spring development or excavations, by backhoe or otherwise, for recovery and use of surface waters or for the purpose of stock watering or irrigation where the depth is 25 feet or less. The term does not include an excavation made for the purpose of obtaining or prospecting for oil, natural gas, minerals, or products of mining or quarrying or for inserting media to repressure oil- or natural-gas-bearing formations or for storing petroleum, natural gas, or other products.

(4) "Water well contractor" or "contractor" means a natural person who ~~constructs~~ contracts on behalf of a firm, corporation, partnership, or other business entity to construct a water well on lands other than his own for compensation.

(5) "Water well driller" or "driller" means any person at a drilling site causing a water well to be drilled."

Section 2. Section 37-43-202, MCA, is amended to read:

"37-43-202. Powers and duties. (1) The board may exercise the authority granted to it by this chapter.

(2) The board shall adopt rules and orders to effectuate this chapter.

INTRODUCED BILL
HB 739

(3) The board shall adopt rules to establish mandatory water well construction standards and enforcement procedures by January 1, 1987. The standards must address the protection of the drilling site; specifications for casing materials; materials and specifications for well screens; casing perforations; well development procedures; proper sealing and grouting; temporary capping; cleaning and disinfecting; contract bonds; guarantees; contractors' and drillers' qualifications; tests for yield and drawdown; reporting procedures and requirements for water quality, well logs, location of wells, and information relating to local conditions; well filters; access ports; gravel packing; sampling methods; plumbness and alignment of the hole and casing; well abandonment procedures; and other necessary and appropriate standards.

~~(3)~~(4) The board may request the department to inspect water wells drilled or being drilled, and the department has access to these at reasonable times.

~~(4)~~(5) The board may~~, subject to 37-1-101 and 37-1-121~~, establish a program for training water well drillers or prospective water well drillers and apprentices to more effectively carry out this chapter.

(6) The board shall set and enforce standards and rules governing the licensing, registration, and conduct of water well drillers and water well contractors.

(7) The board shall set fees commensurate with costs. The board may establish fees, including but not limited to fees for application, examination, renewal, reciprocity, late renewal, and continuing education. Board costs not related to specific programs may be equitably distributed as determined by the board. The board shall maintain records sufficient to support the fees charged for each program area.

~~(5)~~(8) The rules of the board shall be compiled in printed form for distribution to interested persons, for which the department may charge a fee. Sums realized from these sales shall be deposited in the state special revenue fund for the use of the board~~, subject to 37-1-101(6)~~.

~~(6)~~(9) The board shall:

(a) authorize the department to issue licenses to qualified water well contractors and drillers in this state;

(b) cause examinations to be made of applicants for licenses;

(c) deny, revoke, or suspend licenses for good cause, after notice and opportunity to be heard;

(d) reinstate licenses previously revoked when justification is shown to the satisfaction of the board; and

(e) generally perform duties which will carry out this chapter.

(10) The board shall pay to the department its share of

the assessed costs of the department in administering this chapter."

NEW SECTION. Section 3. Disciplinary authority -- injunctions. (1) The board may adopt rules specifying grounds for disciplinary action and rules providing for:

(a) revocation of a license;

(b) suspension of its judgment of revocation on terms and conditions determined by the board;

(c) suspension of the right to practice for a period not exceeding 1 year;

(d) placing a licensee on probation;

(e) reprimand or censure of a licensee; or

(f) taking any other action in relation to disciplining a licensee as the board in its discretion considers proper.

(2) Any disciplinary action by the board must be conducted as a contested case hearing under the provisions of the Montana Administrative Procedure Act.

(3) A board may maintain an action to enjoin a person from engaging in the drilling, making, or construction of water wells until a license to practice is procured. A person who has been enjoined and who violates the injunction is punishable for contempt of court.

Section 4. Section 37-43-302, MCA, is amended to read:

"37-43-302. License required. (1) The drilling,

making, or construction of water wells into the groundwater resources of this state is declared to be a business and activity affecting the public interest, requiring reasonable standards of competence. ~~It~~ Except as provided in subsection (2), it is unlawful for any contractor or driller, as defined in this chapter, to construct a water well without first having obtained a valid license therefor as provided for in this chapter.

(2) A license is not required for:

(a) a person who drills a water well on land that is owned or leased by him and is used by him for farming, ranching, or agricultural purposes or as his residence and who obtains a permit from the board; or

(b) a person who performs labor or services for a licensed water well contractor or driller in connection with the drilling of a water well at the direction and under the personal supervision of a licensed water well contractor or driller."

Section 5. Section 37-43-303, MCA, is amended to read:

"37-43-303. Application -- fee. (1) ~~A~~ Except as provided in 37-43-302(2), a person desiring to engage in the drilling, making, or construction of one or more wells for underground water in this state shall first file an application with the department for a contractor's or driller's license, setting out his qualifications, the

equipment proposed to be used in the contracting, and other matters required by the board on forms adopted by the board.

(2) The department shall charge a fee prescribed by the board for filing the application of a person. The application shall not be acted on until the fee has been paid. Fees collected under this section shall be deposited in the state special revenue fund for the use of the board~~, subject to 37-1-101(6)~~.

(3) A license to construct water wells shall be issued to an applicant if, in the opinion of the board, the applicant is qualified to conduct water well construction operations. In the granting of licenses, the board shall have due regard for the interest of this state in the protection of its underground waters."

Section 6. Section 37-43-304, MCA, is amended to read:

"37-43-304. Temporary license pending examination. A temporary water well contractor's or driller's license may be issued to a person who, by evidence satisfactory to the board, is found to possess the qualifications numbered (a) through (f) in 37-43-305(1) and who has applied for a license under this chapter. The temporary license entitles the holder to engage in the business of drilling, making, or constructing water wells until the time of the next examination given under 37-43-305. On the applicant's successfully meeting the board's requirements on

examination, the temporary license shall be returned to the department and a regular license issued. If the holder of a temporary license fails, after notice of the holding of an examination, to submit himself for examination or to meet the board's requirements, the temporary license expires and shall be returned to the department for cancellation."

Section 7. Section 37-43-305, MCA, is amended to read:

"37-43-305. Examination and qualifications. (1) Under rules pertaining to the business of drilling and contracting for drilling of water wells which the board adopts, the department shall~~, subject to 37-1-101(4),~~ inquire by examination or otherwise into the qualifications of applicants for licenses to drill or make wells for the production of underground waters in this state. Examinations may be oral, written, or both. The qualifications required by the board are:

(a) familiar knowledge of groundwater laws of this state and sanitary standards for water well drilling and construction of water wells;

(b) knowledge of types of water well construction;

(c) knowledge of types of drilling tools and their uses;

(d) knowledge of underground geology in its relation to well construction;

(e) possession of adequate equipment by the applicant

to complete satisfactory water wells under the standards of the board;

(f) financial responsibility of the applicant;

(g) successful completion of an examination given by the department; and

(h) the applicant must have completed a minimum of 1 year apprenticeship under the direct supervision of a licensed water well contractor.

(2) The department shall give examinations at times and places the board determines. Failure of an applicant to successfully complete the examination disqualifies him from making further application for a period of 3 months. The board shall act within a reasonable time on applications for licenses. An application shall be accompanied by the initial fee, and failure to successfully meet the requirements of the board does not entitle the applicant to a refund of the fee."

Section 8. Section 37-43-306, MCA, is amended to read:

"37-43-306. Bond to be required. The department, on issuance of a contractor's license under this chapter, shall require, before the person commences operations in this state, a good and sufficient surety bond or in lieu thereof its equivalent in a certificate of deposit, cashier's check, bank draft, or certified check, to be approved by the board, in the penal sum of ~~$4,000~~ $10,000 conditioned that the

licensee will comply with the rules of the board. ~~and reasonable requirements made by the board in connection with the drilling of an individual well.~~ The bond shall indemnify the property owner whenever a well is drilled or constructed against such damages as may arise as a result of improper drilling or construction of an individual well. Partial or complete forfeiture of the bond must be determined by the appropriate court of civil jurisdiction."

NEW SECTION. Section 9. Appropriation. There is appropriated from the general fund to the Department of Natural Resources and Conservation for the biennium ending June 30, 1987, $13,000 to provide staff to assist the Board of Water Well Contractors in carrying out the provisions of this act.

NEW SECTION. Section 10. Repealer. Section 37-43-103, MCA, is repealed.

NEW SECTION. Section 11. Extension of authority. Any existing authority of the board of water well contractors to make rules on the subject of the provisions of this act is extended to the provisions of this act.

NEW SECTION. Section 12. Codification instruction. Section 2-15-1862 is intended to be renumbered and recodified as an integral part of Title 2, chapter 15, part 33.

NEW SECTION. Section 13. Effective date. This act is

effective July 1, 1985.

-End-

STATE OF MONTANA

REQUEST NO. FNN 381-85

F I S C A L N O T E

Form BD-15

In compliance with a written request received February 11, 19 85, there is hereby submitted a Fiscal Note for H.B. 739 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

To transfer the administration of the Board of Water Well Contractors from the Department of Commerce to the Department of Natural Resources and Conservation; redefining contractor and defining driller; prescribing additional duties and powers of the board, adoption of water well construction standards, requiring a license for water well drillers, increasing bonding requirements and providing an appropriation.

ASSUMPTIONS:

1) Fees will be commensurate with costs to administer the program. (See Technical Note)
2) Additional responsibilities required in the proposed bill will require 1.50 FTE and operational costs above current expenditure levels.
3) The general fund appropriation is required and must be used for personal service expenditures only.
4) The general fund appropriation is split equally between the fiscal years.

FISCAL IMPACT:

	FY 86			FY 87		
	Current	Proposed	Increase	Current	Proposed	Increase
Expenditures:						
Personal Services	$ 18,679	$ 31,631	$ 12,952	$ 18,686	$ 31,631	$ 12,945
Operating Expenses	12,075	17,760	5,685	12,097	15,610	3,513
	$ 30,754	$ 49,391	$ 18,637	$ 30,783	$ 47,241	$ 16,458
General Fund	$ -0-	6,500	6,500	-0-	6,500	6,500
State Special Revenue Fund	$ 30,754	$ 42,891	$ 12,137	$ 30,783	$ 40,741	$ 9,958

David L. Hunter

BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Feb 15, 1985

HB 739

FN8:0/1

LOCAL IMPACT:

None

TECHNICAL NOTE:

Section 9 of the proposed bill appropriates $13,000 general fund to pay for staff to assist the board. Section 2(7) authorizes the board to set fees commensurate with costs.

The above sections appear to be in conflict.

(To be kept current -- post bills when entering being heard or leaving committee.) Form CS-32

STATUS SHEET

Forty-Ninth LEGISLATIVE SESSION

COMMITTEE ON State Administration

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
HB 645	2/4	2/15	2/15		2/15				
632	2/1	2/18	2/18	2/18					
650	2/4	2/12	2/12			2/12			
655	2/4	2/15	2/15			2/15			
675	2/6	2/15	2/15			2/15			
678	2/6	2/15	TABLES						
702	2/7	2/18	2/18	2/18					
705	2/7	2/18	2/18	2/18					
709	2/7	2/18	2/18		2/18				
713	2/7	2/18	2/18	2/18					
724	2/8	2/13	2/13	2/13					
725	2/8	2/11	2/11	2/11					
732	2/8	2/13	2/13	2/13					
721	2/8	2/15	2/15		2/15				
739	2/8	2/19	2/19			2/19			
747	2/8	2/19	2/19	2/19					

Use a separate sheet for Senate, House Bills, and Resolutions

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

February 19, 1985

The meeting of the State Administration Committee was called to order on the above date in Room 317 at 8:00 a.m. by Chairman Sales.

ROLL CALL: All members present.

CONSIDERATION OF HOUSE BILL NO. 774: Rep. Jerry Driscoll, District #92, sponsor, said this revises the method for how the State will determine longevity and annual leave for certain employees. This bill would revert to the way it was done prior to the 1984 Attorney General opinion. He also requested an effective date of August 1, 1984 which would be the date of the Attorney General's opinion.

PROPONENTS: Tom Schneider, Montana Public Employees' Association, explained the bill and the Attorney General's opinion, see attached Exhibits #1 and 2. He said it has always been one year for people to qualify. A part-time employee not only has the benefit prorated but also must work double the time. There would be no additional cost because it had always been done this way until five months ago.

Nadine Jensen, AFSCME, Council #9, also supported the bill.

OPPONENTS: There were no opponents.

DISCUSSION OF HOUSE BILL NO. 774: Chairman Sales asked what this would do to the computer being the change was made to accomodate the computer in the first place. Mr. Schneider said they had been doing this up until August, 1984 so it shouldn't bother the computer. He also asked for an August 1, 1984 effective date.

There being no further questions, Rep. Driscoll closed his presentation of HB 774.

CONSIDERATION OF HOUSE BILL NO. 754: Rep. Harry Fritz, District #56, sponsor, said this is a cost of living adjustment for police officers who have retired in the last 10 years or since July 1, 1975. They do not presently receive a cost of living adjustment. They receive a fixed sum for their retirement income based on their salary at the end of their last full year of service. Those who retired prior to July 1, 1975 do receive a cost of living adjustment. They receive one-half of their last month's salary. The cost of living adjustment is based on one-half of a new officer's salary so that group has seen their incomes increase gradually. This cost of living adjustment would be added to their benefit until it reached one-half of a newly confirmed officer. They are also increasing their contribution

DISCUSSION OF HOUSE BILL NO. 754: Rep. Cody asked how this fund could be used by the general fund if it is supposed to be used for the policemen. Rep. Harbin said if the funds are not earmarked they revert to the general fund. Mr. Steele was asked why they have allowed 10 years to pass before coming in asking for an adjustment. Mr. Steele replied that in 1981 the Association tried to get a cost of living adjustment but it was not well enough organized to get it through. That would have been an impact of 1.2 million on the general fund money. This bill today is a compromise and is something they said they could live with.

Without further comment, Rep. Fritz closed his presentation.

The hearing was closed on HB 754.

CONSIDERATION OF HOUSE BILL NO. 739: Rep. Dennis Iverson, District #12, said this bill came about as a result of the Governor's Ground Water Advisory Council of which Rep. Holliday was the chairman. He said if this bill is passed it would be protection for the consumer, protection from regulations for the water well contractors and would be a chance to protect ground water. Currently, this is a licensing board attached to the Department of Commerce and this bill would move it to the Department of Natural Resources so these contractors could avail themselves of the water offices for enforcement of the rules and regulations. Rep. Iverson then went through the changes in the bill and said this would give them the authority to govern themselves. He did say that some of the drillers do not want it moved to the Department of Natural Resources.

PROPONENTS: Robert Chamberlain, President of the Montana Water Well Drillers' Association, was in favor of the bill with some exceptions. They said they wanted to retain it in the Department of Commerce. They also had some questions regarding the bond. The amount of the bond would eliminate the smaller driller from drilling a water well.

Bob Murphy, Fishtail, Montana, said he had 17 years in the ground water business and over the years has become concerned with the future of the ground water. This is the state's most important natural resource. He said that HB 754 opens the door to some regulation. He said the 1972 Constitution provides that all water belongs to the State for the use of its people.

H.S. "Sonny" Hanson, Montana Technical Council, Design Engineers, suggested an amendment to the bill on page 3, line 1-15, which gives authority for the drilling of water wells. This is presently in the Department of Health and Environmental Sciences and suggested an amendment saying that these rules are to be in conformity with the DHES regulations.

Robert Green, Tongue River, Miles City, was in favor of the bill. He said that regulation is needed as ground water is important to

the whole state and is important to him as an individual. He had no problem with the department setting the regulations. They are the ones that should set the standards and urged the concurrence of the Committee.

Rep. Gay Holliday, District #31, Chairman of the Governor's Ground Water Advisory Council, said it was their recommendation to move this to the Department of Natural Resources after a lot of work and study. She said that those people they worked with were in agreement and asked for the support of the Committee.

OPPONENTS: Wes Lindsey, Chairman of the Water Well Licensing Board, said he was not opposed to the bill in its entirety but said it would eliminate some of the small drillers. The Water Well Licensing Board was not consulted regarding this bill and their Board voted against HB 739. He said they do more to protect the ground water with $16,000 than any department could with their large budget. He also was in favor of leaving it in the Department of Commerce. He had talked to U.S.F.&G., the bonding manager, and they told him if this bond is raised to $10,000 it takes $100,000 of net worth to qualify for $10,000 bond. They also told him this would eliminate 90% of the small drillers in the state. This bill would encourage more and more well drillers to continue in business without licenses - right now there are maybe 5 or 6 who are not licensed. He said that HB 739 should be tabled as it needs more study and it will cost thousands of dollars to implement it.

There being no further opponents, the hearing was open to questions from the Committee.

DISCUSSION OF HOUSE BILL NO. 739: In answer to Rep. Harbin's questions regarding how much equipment costs to get into the drilling business, Mr. Chamberlain replied that with used equipment you could get in for a minimum of $20,000. Therefore, Rep. Harbin didn't think the objections to the bond were legitimate.

Rep. Pistoria asked Mr. Lindsey if the Board voted against moving it to the Department of Natural Resources. Mr. Lindsey said they were against the move and against the water well bond of $10,000. Rep. Smith asked what the vote was on this bill. Mr. Lindsey replied that the vote of the Water Licensing Board was 4-1 with one abstaining because he worked for DNRC and the Water Well Drilling Board voted 22-17 against. Mr. Iverson said he nad no objection to the amendment proposed by Mr. Hanson concerning the Department of Health and Environmental Sciences.

In answer to Rep. Holliday's question, Mr. Lindsey said the Water Well Licensing Board is appointed by the Governor and has a diverse membership consisting of engineers, sanitarian, well drillers, etc. She asked Mr. Lindsey if they had requested more money after he said they could not do any more without more money. He replied they have requested more money since 1979.

In closing, Rep. Iverson said he was a licensed well driller, had been for several years and all he had seen of this Board was for them to come out and tell him that he needed to display his license on his truck - he didn't think that was protection of the State's ground water. He said he would have no trouble adjusting the bond and would work on the amount that would be acceptable.

The hearing was closed on HB 739.

CONSIDERATION OF HOUSE BILL NO. 775: Rep. John Harp, District #7, sponsor of the bill, said this was introduced at the request of the State Auditor because in the past they have overpaid some of the counties of forest reserve monies. Some of the counties have used this money and then have to pay it back. Some counties have to wait until the next year to make the payback. This bill is designed to clean up the bookeeping procedures on these monies if they could make the full payment at one time. It would make the auditor's office run a lot smoother and these counties would know what they are going to receive in forest receipt money.

PROPONENTS: Wayne Phillips, representing Andy Bennett, State Auditor, said that this was requested in 1981 by Lincoln County because the federal government makes these estimates and provides them to the State Auditor. In 1972 they estimated $8 million - when it came it was $4.5 million. The Auditor's office wants to receive the money and distribute it out by the end of the calendar year.

There were no further proponents.

There were no opponents.

There being no questions from the Committee, Rep. Harp closed his presentation.

CONSIDERATION OF HOUSE BILL NO. 762: Rep. Tom Jones, District #4, sponsor of the bill, said it came about because of the recent Supreme Court decision in the Willis workers' compensation case in which the attorney's fee alone exceeded the largest workers' compensation settlement in the state. No attorney is worth $1,000 per hour and the attorney's fee in the Willis case is a good example of this abuse.

PROPONENTS: Keith Olson, Executive Director of the Montana Logging Association, said that the Legislature must decide that workers' compensation exists for the protection of the employees. The current system encourages attorneys appealing the cases to a higher court. He suggested an hourly fee with a cap on the total fee for any one case. They were in support of the intention of the bill.

George Wood, Executive Secretary of the Montana Self Insurers' Association, said they supported HB 762 and more strongly support

NAME Ted Beers BILL No. 739

ADDRESS Billing Mt. DATE 2-19-85

WHOM DO YOU REPRESENT Self Water Well Driller

SUPPORT _____ OPPOSE X AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Also Board Member

FORM CS-34
1-81

NAME Wesley Sundeen BILL No. HB 739

ADDRESS Clancy Mont DATE 1/19/85

WHOM DO YOU REPRESENT Water Well Board.

SUPPORT _____ OPPOSE X AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

FORM CS-34
1-81

NAME ROBERT CHAMBERLIN BILL No. 739

ADDRESS PO BOX 3810, BUTTE DATE 2-19-85

WHOM DO YOU REPRESENT MONTANA WATER WELL DRILLERS ASS

SUPPORT X OPPOSE AMEND X

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

FORM CS-34
1-81

NAME D.R. Davis BILL No. H.B. 739

ADDRESS P.O. Box 2298 Billings MT DATE 2-19-85

WHOM DO YOU REPRESENT MT. Water Well Drillers Assoc.

SUPPORT X OPPOSE _____ AMEND X

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

FORM CS-34
1-81

NAME Kevin Haggerty BILL No. 739

ADDRESS ~~PO Box~~ 2840 Texas Hwy DATE 2-19-85

WHOM DO YOU REPRESENT Montana Water Well Drillers Ass

SUPPORT X OPPOSE _____ AMEND X

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

FORM CS-34
1-81

CS-34

(Type in committee members' names and have 50 printed to start).

DAILY ROLL CALL

State Administration COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 2/19/85

NAME	PRESENT	ABSENT	EXCUSED
Chairman Walter Sales	✓		
V-Chairman Helen O'Connell	✓		
Campbell, Bud	✓		
Compton, Duane	✓		✓
Cody, Dorothy	✓		
Fritz, Harry	✓		
Garcia, Rodney	✓		
Hayne, Harriet	✓		
Harbin, Raymond	✓		
Holliday, Gay	✓		
Jenkins, Loren	✓		
Kennerly, Roland	✓		
Moore, Janet	✓		
Nelson, Richard	✓		
Peterson, Mary Lou	✓		
Phillips, John	✓		
Pistoria, Paul	✓		
Smith, Clyde	✓		

Please attach to minutes.

VISITORS' REGISTER

_____ COMMITTEE

BILL NO. HB-739 DATE _____

SPONSOR _____

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
HS Howson	HELENA (MTC)	L	
ROBERT GREEN	MILES CITY	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

February 19, 1985

The meeting of the State Administration Committee was called to order in Room 312-2 at 5:15 p.m. on the above date.

ROLL CALL: All members present but Rep. Jenkins left his votes because he had to be present at another hearing.

CONSIDERATION OF HOUSE BILL NO. 747: Rep. John Phillips, District #33, told the committee that this bill would exempt certain members of the armed forces from having to possess a Montana driver's license. Any member on active duty that has a valid license doesn't have to have a Montana driver's license. This would be in conformance with the Soldier's and Sailor's Act and would just be putting it in the Montana codes. The only thing we aren't doing now is exempting the spouse if the spouse is not gainfully employed in Montana. The Soldier's and Sailor's Act was enacted so these people would not be harrassed from state to state. Even for members of the armed forces returning from overseas, if they have a valid license, would have 45 days within which to get a Montana license. He said that Larry Majerus of the Motor Vehicle Division of the Department of Justice is in support of thebill.

PROPONENTS: Rep. Clyde Smith wished to be shown on the record as supporting HB 747.

OPPONENTS: There were no opponents.

DISCUSSION OF HOUSE BILL NO. 747: In answer to a question from Rep. Pistoria, Rep Phillips replied that if they have a valid driver's license from another state they don't have to purchase a Montana license. Rep. O'Connell said they don't even have to renew them if they are on active duty.

Without further comment, Rep. Phillips closed.

The committee then went into executive session for action on the preceding bill and those heard at the hearing at 8:00 a.m.

DISPOSITION OF HOUSE BILL NO. 747: Rep. Smith moved that HB 747 DO PASS, seconded by Rep. O'Connell. Motion CARRIED UNANIMOUSLY.

DISPOSITION OF HOUSE BILL NOS. 788 and 762: Rep. Smith asked if they could consider 788 first.

Rep. Harbin moved that HB 788 DO PASS, seconded by Rep. Garcia

Rep. Smith commented that this bill was prepared by a former administrator of the workers' compensation division and the Willis decision was actually the result of the Waite decision. This would put it back to prior to that and everybody can live with that.

Rep. Harbin, who is in the insurance business, felt this was a good bill and said it puts it back where it was. He stated that there is a council that is going to work on the workers' compensation laws during the interim and they will report back to the 1987 Legislature.

Chairman Sales moved ADOPTION OF THE AMENDMENT on page 3, line 7 following compensation by inserting "court", seconded by Rep. Smith. Motion CARRIED UNANIMOUSLY.

Rep. Smith said that this council that has been appointed to study the workers' compensation division is an 18 member council that is very representative of all concerned and is a well mixed group. He said he was very impressed with the first meeing and there will be proposed legislation at the next session.

Rep. Harbin moved ADOPTION OF THE AMENDMENT for an effective date on passage and approval, seconded by Rep. Fritz. Motion CARRIED UNANIMOUSLY.

The original DO PASS AS AMENDED CARRIED UNANIMOUSLY.

DISPOSITION OF HOUSE BILL NO. 762: Rep. Smith moved that HB 762 BE TABLED, seconded by Rep. Harbin. Motion CARRIED UNANIMOUSLY.

DISPOSITION OF HOUSE BILL NO. 774: Rep. Smith moved that HB 774 DO PASS, seconded by Rep. Phillips.

Rep. O'Connell moved ADOPTION OF THE AMENDMENTS providing for an applicability date, seconded by Rep. Campbell. Motion CARRIED UNANIMOUSLY.

The original DO PASS AS AMENDED CARRIED UNANIMOUSLY.

DISPOSITION OF HOUSE BILL NO. 754: Rep. Fritz moved that HB 754 DO PASS, seconded by Rep. O'Connell. He said that this is an appropriate place to spend this money as that is what it was intended for when it was created in 1910. The motion CARRIED with Rep. Sales voting "no".

DISPOSITION OF HOUSE BILL NO. 775: Rep. Phillips moved that HB 775 DO PASS, seconded by Rep. Compton. Motion CARRIED UNANIMOUSLY.

DISPOSITION OF HOUSE BILL NO. 739: Rep. Smith said that

some of the witnesses present had some questions about the bond and said it should be a $4,000 bond. The bonding issue will be addressed in the future by the council, along with other items. An amendment was suggested on page 3, line 15 to make these rules in conformance with those of the department of health and environmental sciences. An amendment was also proposed on page 10, lines 3 through 8 by striking lines 3 through 8. Rep. Cody asked why the bond was being lowered to $4,000. Rep. Harbin said that in order to insure the harmony of everybody, they agreed to lower it to $4,000. When the new rules are enacted they will address that issue again. Rep. Cody questioned why the small drillers wouldn't qualify for the bond. Rep. Harbin said for a $10,000 bond they would have to have net assets of $100,000. Rep. Cody said that in her business as a real estate agent she had to be bonded but didn't need such assets, however, Rep. Harbin told her that was a fidelity bond and drillers would have to obtain a performance bond. On page 3, line 8 it was proposed to strike "contract" which means that contract means a written contract.

Rep. Peterson expressed her concern for the protection of the small operation with two men and one truck. Rep. Fritz said that was the concern of the opposition but these amendments have partially cleared up those concerns. Rep. Harbin said that this bill addresses all equally.

Rep. Smith said that the decision to put this into the department of natural resources and conservation was done for a very good reason - because our water is becoming an increasing problem and he pointed out some of the situations the state is going to be faced with. He said this should be in this department. Subdivisions that drill wells are going to have to have an impact statement thus protecting the surrounding ground water and wells.

Rep. Harbin moved ADOPTION OF THE AMENDMENTS, seconded by Rep. O'Connell. Motion CARRIED UNANIMOUSLY.

Rep. O'Connell then moved that HB 739 DO PASS AS AMENDED WITH STATEMENT OF INTENT ATTACHED, seconded by Rep. Fritz. The motion CARRIED UNANIMOUSLY.

The meeting was adjourned at 6:05 p.m.

WALTER R. SALES, Chairman

ls

STATEMENT OF INTENT

HOUSE BILL NO. 739

A statement of intent is required for this bill because the bill amends 37-43-202 to require the board of water well contractors to adopt rules for specific water well construction standards. It is intended that any existing standards be substantially reviewed, modified, and incorporated into the new standards. It is further intended that the new standards should be modeled after the existing water well construction standards adopted by the Montana well drillers association and the United States environmental protection agency.

CS-30

(Type in committee members' names and have 50 printed to start).

DAILY ROLL CALL

State Administration COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 2/19/85
5 P.M.

NAME	PRESENT	ABSENT	EXCUSED
Chairman Walter Sales	✓		
V-Chairman Helen O'Connell	✓		
Campbell, Bud	✓		
Compton, Duane	✓		
Cody, Dorothy	✓		
Fritz, Harry	✓		
Garcia, Rodney	✓		
Hayne, Harriet	✓		
Harbin, Raymond	✓		
Holliday, Gay	✓		
Jenkins, Loren	✓		
Kennerly, Roland	✓		
Moore, Janet	✓		
Nelson, Richard	✓		
Peterson, Mary Lou	✓		
Phillips, John	✓		
Pistoria, Paul	✓		
Smith, Clyde	✓		

Please attach to minutes.

STANDING COMMITTEE REPORT

February 19 85

MR. SPEAKER

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 739

First reading copy (White color)

TRANSFER OF THE BOARD OF WATER WELL DRILLERS TO DEPT. OF NAT. RES. AND CONSERVATION

Respectfully report as follows: That HOUSE Bill No. 739

BE AMENDED AS FOLLOWS:

1) Title, line 12.
Strike: "INCREASING BOND REQUIREMENTS;"

2) Page 3, line 3.
Strike: "contract"

3) Page 3, line 15.
Following: "standards."
Insert: "The rules adopted by the board must conform with rules adopted by the department of health and environmental sciences that pertain to the location, construction, and sanitary protection of water wells."

4) Page 3, line 25.
Strike: "$10,000"
Insert: $4,000"

CONTINUED ON PAGE 2

XXXXXXX
DO PASS

Chairman.

STATE PUB. CO.
Helena, Mont.

State Administration
HB 739

February 19 19 65

5) Page 10, lines 3 through 8.
Following: "well." on line 3
Strike: remainder of lines 3 through "." on line 8

AND AS AMENDED
DO PASS

STATEMENT OF INTENT ATTACHED.

Walter R. Sales, Chairman.

STATE PUB. CO.
Helena, Mont.

Statement of Intent
House Bill 739

February 19 35

A statement of intent is required for this bill because the bill amends 37-43-202 to require the board of water well contractors to adopt rules for specific water well construction standards. It is intended that any existing standards be substantially reviewed, modified, and incorporated into the new standards. It is further intended that the new standards should be modeled after the existing water well construction standards adopted by the Montana well drillers association and the United States environmental protection agency.

Walter R. Sales, Chairman.

STATE PUB. CO.
Helena, Mont.

CHAIRMAN--HAFFEY, JACK
NORMAL SCHEDULE==> SITE: ROOM 331 DAYS: M-TU-W-TH-F TIME: 10:00 A.M.-12 NOON
SECRETARY-PENNINGTON, GLENDA

--BILL NO---	REFER DATE---	HEARING DATE---	CONSIDERATION DATES----------	COMMITTEE ACTION----------	REREFERRED TO COMM----	DATE OUT-
HB0629	2/19	3/19		CONCUR		3/19
PAVLOVICH, ROBERT J. (BOB)			ALLOCATION OF MOTOR VEHICLE VIOLATION FINE MONEY			
HB0631	2/22	3/20		CONCUR AS AMENDED		3/20
KEYSER, KERRY R.			PROVIDING THAT ELECTORS MAY REQUEST A PAPER BALLOT WHEN VOTING MACHINE USED			
HB0634	3/04				FINANCE & CLAIMS 3/19	
LORY, EARL C.			SPECIAL REVENUE ACCOUNT FOR OPERATIONS OF SECURITIES DIVISION			
HB0655	2/22	3/20		CONCUR		3/20
PECK, RAY			REQUIRE APPROPR. OF ADMIN. EXPENSES OF PERS, TERS, HAIL BOARD & RURAL REHAB.			
HB0724	2/18	3/18	3/20	CONCUR AS AMENDED		3/20
KEYSER, KERRY R.			ALLOWS VOTE ON SPECIAL LEVY FOR HOSPITAL DISTRICT IN ODD OR EVEN YEAR			
HB0732	2/16	3/14		CONCUR		3/14
COHEN, BENJAMIN R. (BEN)			GIVES FLATHEAD BASIN COMMISSION AUTHORITY TO RECEIVE AND EXPEND GIFTS ETC.			
HB0739	3/26	3/28		CONCUR AS AMENDED		3/28
IVERSON, DENNIS			TRANSFER OF THE BOARD OF WATER WELL DRILLERS TO DEPT. NAT. RES. AND CONSER.			
HB0774	3/04	3/21	3/25	CONCUR AS AMENDED		3/25
DRISCOLL, JERRY L.			REVISING METHOD FOR DETERMINING YEARS OF EMPLOYMENT FOR PUBLIC EMPLOYEES			
HB0775	3/04	3/21	3/25	CONCUR AS AMENDED		3/25
HARP, JOHN G.			CLARIFY DISTRIBUTION OF FOREST RESERVE MONEY BY THE STATE TREASURER			
HB0779	3/04	3/25		CONCUR	FINANCE & CLAIMS	3/25
CONNELLY, MARY ELLEN			CREATES SPECIAL LAW ENFORCEMENT ACCOUNT - APPROPRIATES PROCEEDS			
HB0788	3/04	3/25		CONCUR AS AMENDED		3/25
SIMON, BRUCE T.			AUTHORIZING DEPT. OF ADMIN. TO CONSOLIDATE STATE OFFICES OUTSIDE OF HELENA			

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE SENATE

March 28, 1985

The fifty-second meeting of the State Administration Committee was called to order by Chairman Jack Haffey in Room 331, Capitol, at 10 a.m. on Thursday, March 28, 1985.

ROLL CALL: All the members were present.

CONSIDERATION OF HOUSE BILL 739: Representative Dennis Iverson, House District 12, is the sponsor of this bill entitled, "AN ACT TRANSFERRING THE ADMINISTRATION OF THE BOARD OF WATER WELL CONTRACTORS FROM THE DEPARTMENT OF COMMERCE TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION; REDEFINING "WATER WELL CONTRACTOR" AND PROVIDING A DEFINITION OF "WATER WELL DRILLER"; PRESCRIBING ADDITIONAL DUTIES AND POWERS OF THE BOARD; REQUIRING THE ADOPTION OF WATER WELL CONSTRUCTION STANDARDS; REQUIRING A LICENSE FOR WATER WELL DRILLERS; ~~INCREASING BOND REQUIREMENTS;~~ PROVIDING AN APPROPRIATION; AMENDING SECTIONS ..., MCA; REPEALING SECTION ..., MCA; AND PROVIDING AN EFFECTIVE DATE." Representative Iverson said this is a very simple bill. The purpose is to do something with water well contractors and standards. Representative Iverson felt that we need mandatory water well standards. He said this bill grants authority to discipline if the contractors do not meet these standards, or if their wells are below standard. It moves the Board of Water Well Contractors from the Department of Commerce to the Department of Natural Resources and Conservation. Representative Iverson felt that this Board should have rightfully been there all along. He said the Department of Natural Resources and Conservation (DNRC) has water well offices and they will be available to the Board. He felt this would be a tremendous savings. Representative Iverson said the only "bone of contention" comes from the fact that they do not want to be consumed by the Department, and it is not our intent that that happen and we enter a formal amendment. (See Exhibit "1" attached hereto and by this reference made a part hereof.)

PROPONENTS: Doug Davis, Billings, Montana Water Well Drillers Association, supports this bill.

Bob Murphy, B & H Drilling, supports this bill. He said that since the opposition has mellowed, he will simply say that it makes good sense that this move to the DNRC.

OPPOSITION: Wes Lindsey, Chairman of Water Well Board, opposes this bill. He said he was against this, but with the amendments, it might not be too bad. He said that where they were at, they saved money because there were many boards and they shared secretarial help. He said that it is impossible for them to move with the budget that they have now. He felt that if they were

going to enforce rules and regulate, they would need at least two full time inspectors. He urged the Committee if they were going to move them, to move them with some money.

COMMITTEE QUESTIONS: Senator Lynch asked Representative Iverson to address the budget problems. Representative Iverson said that this Board is self-supporting through their fees and licenses. He did not see a problem with any of this as it can all be accomplished for the same amount of money. Senator Lynch asked how much money in budget in Department of Commerce. Iverson replied that there was none, it is financed by its own fees. Senator Tveit asked why they would need new staff and more inspectors. Lindsey replied because there will be more to do with the new rules and regulations. Senator Manning asked if they couldn't increase their fees. Mr. Lindsey replied that the fees were already pretty high--$90. to take the test and $100. for the license. Senator Manning wanted to know if the inspector was hired by his group. the Department of Commerce, or just who. Mr. Lindsey replied by the Occupational Licensing. Senator Conover said that if you don't move, you aren't going to have any additional regulations put on you. Mr. Lindsey replied that if this passes, we will have more authority to do what we should have been doing. Senator Conover replied that this looks like a good bill. He said that water is a precious commodity and it should be protected. Senator Farrell asked about the crossed out language of the bond in the bill. Representative Iverson said that they had wanted to charge a high bond, but the insurance companies had come in and said they could not issue bonds like that, so we had to change it. Senator Farrell asked if there were a lot of complaints. Mr. Lindsey said that before the Board was put into place, there were 35 or 40 per year, but now they handle perhaps 7-8 per year. Senator Mohar asked if they had the right to assess penalties when these complaints are upheld or what. Mr. Lindsey replied that they could take their license away. Senator Manning asked how many members they have at the present time. Mr. Lindsey said they have five. Senator Manning asked if they were all water well drillers. Mr. Lindsey replied that one was from the DNRC, one from State Board of Health, etc.

Representative Iverson closed by telling the Committee of the bad wells that he had seen in his years as a water well contractor. Representative Iverson said there are waters being lost and being missed and this is the most economical way of handling this problem. HOUSE BILL 739 is closed.

EXECUTIVE ACTION ON HOUSE BILL 739: Senator Manning made a motion that the amendments (Exhibit "2" attached hereto) be adopted. Question was called, and the Committee voted unanimously that the amendments be adopted. Senator Manning made a motion that HOUSE BILL 739, as amended, be concurred in. Question was called, and the Committee voted unanimously that HOUSE BILL 739, AS AMENDED, BE CONCURRED IN. (Senator Galt will carry this to the floor.)

Senator Mohar felt that the amended Statement of Intent needed to be adopted, so he made a motion that the Statement of Intent, as amended, be adopted. Question was called, and the Committee voted unanimously that the Statement of Intent, as amended, be adopted.

EXECUTIVE ACTION ON HOUSE BILL 864: Senator Lynch said that although this looks like just a Missoula County problem on its surface, there would be a lot of counties in this shape. Valencia Lane, staff Attorney, entered four amendments. (Exhibits "3" and "4" respectively, attached hereto and by this reference made a part hereof.) Senator Manning asked Valencia Lane if this would solve all the problems for Missoula. Valencia replied that it would. Senator Harding felt that this would help all the counties in conjunction with the bill that said that you only had to have paper ballots if 5% of the electorate requested them. She said these amendments would take care of Madison County where it is $74.00 per ballot. Senator Harding made a motion that the amendments be adopted. Question was called, and the Committee voted unanimously that the amendments be adopted. Senator Harding made a motion that HOUSE BILL 864 as amended, be concurred in. Question was called, and the Committee voted unanimously that HOUSE BILL 864 AS AMENDED, BE CONCURRED IN. (Senator Harding will carry this to the floor.

Senator Haffey asked Senator Lynch to present his Boards.

Senator Lynch made a motion that the Board of Denturity be recommended to the Senate as a whole for confirmation. Board of Denturity consisting of the following people:

Elsie Fox, Miles City
Ronald B. Kandarian, Kalispell
Henry Siderius, Kalispell
Everett Vanden Eeden, Billings
Lee M. Wiser, Livingston.

Senator Lynch explained that these people should be appointed, although the Governor would later appoint a dentist to the Board and one of the members would resign. Mark Bisom said that this was correct, but that the appointment may not be made until after the session. Senator Lynch also told the Committee that there was a great deal of commotion regarding these appointments, because some of the dentists felt that the appointees could not have possibly worked two years in this profession since there was no such thing as a Denturist. Mark Bisom explained that this was a nonregulated industry and they were practicing not legally nor illegally, but they were practicing and therefore, they qualify. He said they all have the required experience. Senator Lynch said it has also been agreed that the denturist must send the patient to the dentist to be checked on the fittings. Question was called, and with the Committee voting unanimously, the motion was adopted.

Exhibit "1"
HB-739
3-28-85

HB 739
Amendment to Third Reading Copy
Statement of Intent
Senate Taxation Committee
Rep. Iverson
March 28, 1985

1. Statement of Intent
Page 1.
Following: line 14
Insert: "It is the intent of the legislature that the act of transferring the board of water well contractors from the department of commerce to the department of natural resources and conservation may not be construed to abridge or otherwise restrict the existing authority and autonomy of the board of water well contractors."

Exhibit "2"
HB-739
3-28-85

Glenda
USE
THESE
VJ

HB 739
Amendment to Third Reading Copy
Statement of Intent
Senate Taxation Committee
Rep. Iverson
March 28, 1985

1. Statement of Intent
Page 1.
Following: line 14
Insert: "It is the intent of the legislature that the act of transferring the board of water well contractors from the department of commerce to the department of natural resources and conservation may not be construed to abridge or otherwise restrict the existing authority and autonomy of the board of water well contractors."

2. Page 3, lines 15 through 19.
Following: "standards." on line 15
Strike: the remainder of line 15 through line 19

ROLL CALL

STATE ADMINISTRATION COMMITTEE

49th LEGISLATIVE SESSION -- 1985 Date 3-28-85

NAME	PRESENT	ABSENT	EXCUSED
SEANTOR JACK HAFFEY, Chairman	✓		
SENATOR LES HIRSCH, Vice-Chairman	✓		
SENATOR JOHN ANDERSON	✓		
SENATOR MAX CONOVER	✓		
SENATOR WILLIAM FARRELL	✓		
SENATOR ETHEL HARDING	✓		
SENATOR J. D. LYNCH	✓		
SENATOR DICK MANNING	✓		
SENATOR JOHN MOHAR	✓		
SENATOR LARRY TVEIT	✓		

DATE March 28, 1985

COMMITTEE ON State Administration

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppos
Mark Bisom	Governor's Boards		✓	
Robert B. Murphy	B+H Drilling	739	✓	
Stanton Hoard	Davis Drilling Billings.	739	✓	
D.R. Davis	MWWDA	739	✓	
Kevin Haggerty	MWWDA	739	✓	
Robert Kieffer	MWWDA	739	✓	

STANDING COMMITTEE REPORT

March 29, 19 85

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE BILL No. 739

third reading copy (blue color)

(Senator Galt)

TRANSFER OF THE BOARD OF WATER WELL DRILLERS TO DEPT. NAT. RES. AND CONSER.

Respectfully report as follows: That HOUSE BILL No. 739

be amended as follows:

1. STATEMENT OF INTENT, page 1.
Following: Line 14
Insert: "It is the intent of the legislature that the act of transferring the board of water well contractors from the department of commerce to the department of natural resources and conservation may not be construed to abridge or otherwise restrict the existing authority and autonomy of the board of water well contractors."

2. Page 3, lines 15 through 19.
Following: "standards." on line 15
Strike: the remainder of line 15 through line 19

AND AS AMENDED

BE CONCURRED IN

XXXXXXX
~~DO PASS~~

XXXXXXXXX
DO NOT PASS

Chairman.

STATEMENT OF INTENT

HOUSE BILL 739

House State Administration Committee

A statement of intent is required for this bill because the bill amends 37-43-202 to require the board of water well contractors to adopt rules for specific water well construction standards. It is intended that any existing standards be substantially reviewed, modified, and incorporated into the new standards. It is further intended that the new standards should be modeled after the existing water well construction standards adopted by the Montana well drillers association and the United States environmental protection agency. IT IS THE INTENT OF THE LEGISLATURE THAT THE ACT OF TRANSFERRING THE BOARD OF WATER WELL CONTRACTORS FROM THE DEPARTMENT OF COMMERCE TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION MAY NOT BE CONSTRUED TO ABRIDGE OR OTHERWISE RESTRICT THE EXISTING AUTHORITY AND AUTONOMY OF THE BOARD OF WATER WELL CONTRACTORS.

REFERENCE BILL: INCLUDES GOVERNOR'S AMENDMENTS DATED 4-22-85

HB 739

HOUSE BILL NO. 739

INTRODUCED BY IVERSON, HOLLIDAY, GALT

A BILL FOR AN ACT ENTITLED: "AN ACT TRANSFERRING THE ADMINISTRATION OF THE BOARD OF WATER WELL CONTRACTORS FROM THE DEPARTMENT OF COMMERCE TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION; REDEFINING "WATER WELL CONTRACTOR" AND PROVIDING A DEFINITION OF "WATER WELL DRILLER"; PRESCRIBING ADDITIONAL DUTIES AND POWERS OF THE BOARD; REQUIRING THE ADOPTION OF WATER WELL CONSTRUCTION STANDARDS; REQUIRING A LICENSE FOR WATER WELL DRILLERS; ~~INCREASING BOND REQUIREMENTS;~~ PROVIDING AN APPROPRIATION; AMENDING SECTIONS 37-43-102, 37-43-202, AND 37-43-302 THROUGH 37-43-306, MCA; REPEALING SECTION 37-43-103, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 37-43-102, MCA, is amended to read:

"37-43-102. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Board" means the board of water well contractors provided for in [2-15-1862].

(2) "Department" means the department of ~~commerce~~ natural resources and conservation provided for in Title 2, chapter 15, part ~~18~~ 33.

(3) "Water well" means an excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed and intended for the location, diversion, artificial recharge, or acquisition of groundwater. The term does not include spring development or excavations, by backhoe or otherwise, for recovery and use of surface waters or for the purpose of stock watering or irrigation where the depth is 25 feet or less. The term does not include an excavation made for the purpose of obtaining or prospecting for oil, natural gas, minerals, or products of mining or quarrying or for inserting media to repressure oil- or natural-gas-bearing formations or for storing petroleum, natural gas, or other products.

(4) "Water well contractor" or "contractor" means a natural person who ~~constructs~~ contracts on behalf of a firm, corporation, partnership, or other business entity to construct a water well on lands other than his own for compensation.

(5) "Water well driller" or "driller" means any person at a drilling site causing a water well to be drilled."

Section 2. Section 37-43-202, MCA, is amended to read:

"37-43-202. Powers and duties. (1) The board may exercise the authority granted to it by this chapter.

(2) The board shall adopt rules and orders to effectuate this chapter.

HB 0739/04

(3) The board shall adopt rules to establish mandatory water well construction standards and enforcement procedures by January 1, 1987. The standards must address the protection of the drilling site; specifications for casing materials; materials and specifications for well screens; casing perforations; well development procedures; proper sealing and grouting; temporary capping; cleaning and disinfecting; ~~contract~~ bonds; guarantees; contractors' and drillers' qualifications; tests for yield and drawdown; reporting procedures and requirements for water quality, well logs, location of wells, and information relating to local conditions; well filters; access ports; gravel packing; sampling methods; plumbness and alignment of the hole and casing; well abandonment procedures; and other necessary and appropriate standards. ~~THE--RULES--ADOPTED--BY THE--BOARD-MUST-CONFORM-WITH-RULES-ADOPTED-BY-THE-DEPARTMENT OF-HEALTH-AND-ENVIRONMENTAL-SCIENCES--THAT--PERTAIN--TO--THE LOCATION,--CONSTRUCTION,--AND--SANITARY--PROTECTION-OF-WATER WELLS.~~

~~(3)~~(4) The board may request the department to inspect water wells drilled or being drilled, and the department has access to these at reasonable times.

~~(4)~~(5) The board may~~,--subject---to---37-1-101---and 37-1-121,~~ establish a program for training water well drillers or prospective water well drillers and apprentices

to more effectively carry out this chapter.

(6) The board shall set and enforce standards and rules governing the licensing, registration, and conduct of water well drillers and water well contractors.

(7) The board shall set fees commensurate with costs. The board may establish fees, including but not limited to fees for application, examination, renewal, reciprocity, late renewal, and continuing education. Board costs not related to specific programs may be equitably distributed as determined by the board. The board shall maintain records sufficient to support the fees charged for each program area.

~~(5)~~(8) The rules of the board shall be compiled in printed form for distribution to interested persons, for which the department may charge a fee. Sums realized from these sales shall be deposited in the state special revenue fund for the use of the board~~,--subject-to-37-1-101(6)~~.

~~(6)~~(9) The board shall:

(a) authorize the department to issue licenses to qualified water well contractors and drillers in this state;

(b) cause examinations to be made of applicants for licenses;

(c) deny, revoke, or suspend licenses for good cause, after notice and opportunity to be heard;

(d) reinstate licenses previously revoked when

justification is shown to the satisfaction of the board; and

(e) generally perform duties which will carry out this chapter.

(10) The board shall pay to the department its share of the assessed costs of the department in administering this chapter."

NEW SECTION. Section 3. Disciplinary authority -- injunctions. (1) The board may adopt rules specifying grounds for disciplinary action and rules providing for:

(a) revocation of a license;

(b) suspension of its judgment of revocation on terms and conditions determined by the board;

(c) suspension of the right to practice for a period not exceeding 1 year;

(d) placing a licensee on probation;

(e) reprimand or censure of a licensee; or

(f) taking any other action in relation to disciplining a licensee as the board in its discretion considers proper.

(2) Any disciplinary action by the board must be conducted as a contested case hearing under the provisions of the Montana Administrative Procedure Act.

(3) A board may maintain an action to enjoin a person from engaging in the drilling, making, or construction of water wells until a license to practice is procured. A

person who has been enjoined and who violates the injunction is punishable for contempt of court.

Section 4. Section 37-43-302, MCA, is amended to read:

"37-43-302. License required. (1) The drilling, making, or construction of water wells into the groundwater resources of this state is declared to be a business and activity affecting the public interest, requiring reasonable standards of competence. ~~It~~ Except as provided in subsection (2), it is unlawful for any contractor or driller, as defined in this chapter, to construct a water well without first having obtained a valid license therefor as provided for in this chapter.

(2) A license is not required for:

(a) a person who drills a water well on land that is owned or leased by him and is used by him for farming, ranching, or agricultural purposes or as his residence and who obtains a permit from the board; or

(b) a person who performs labor or services for a licensed water well contractor or driller in connection with the drilling of a water well at the direction and under the personal supervision of a licensed water well contractor or driller.

(3) (A) TO OBTAIN A PERMIT UNDER SUBSECTION (2)(A), A PERSON SHALL FILE WITH THE DEPARTMENT AN APPLICATION CONTAINING THE APPLICANT'S NAME, MAILING ADDRESS, THE

LOCATION OF THE PROPOSED WELL, THE NATURE OF THE APPLICANT'S OWNERSHIP INTEREST IN THE PROPERTY ON WHICH THE WELL IS TO BE DRILLED, AND THE USE FOR THE PROPOSED WELL.

(B) THE BOARD SHALL PROMPTLY ISSUE A PERMIT IF IT FINDS THAT THE APPLICANT INTENDS TO DRILL THE WELL ON LAND THAT HE OWNS OR LEASES AND THAT HE USES FOR FARMING, RANCHING, OR AGRICULTURAL PURPOSES OR AS HIS RESIDENCE."

Section 5. Section 37-43-303, MCA, is amended to read:

"37-43-303. Application -- fee. (1) ~~A~~ Except as provided in 37-43-302(2), a person desiring to engage in the drilling, making, or construction of one or more wells for underground water in this state shall first file an application with the department for a contractor's or driller's license, setting out his qualifications, the equipment proposed to be used in the contracting, and other matters required by the board on forms adopted by the board.

(2) The department shall charge a fee prescribed by the board for filing the application of a person. The application shall not be acted on until the fee has been paid. Fees collected under this section shall be deposited in the state special revenue fund for the use of the board~~, subject to 37-1-101(6)~~.

(3) A license to construct water wells shall be issued to an applicant if, in the opinion of the board, the applicant is qualified to conduct water well construction

operations. In the granting of licenses, the board shall have due regard for the interest of this state in the protection of its underground waters."

Section 6. Section 37-43-304, MCA, is amended to read:

"37-43-304. Temporary license pending examination. A temporary water well contractor's or driller's license may be issued to a person who, by evidence satisfactory to the board, is found to possess the qualifications numbered (a) through (f) in 37-43-305(1) and who has applied for a license under this chapter. The temporary license entitles the holder to engage in the business of drilling, making, or constructing water wells until the time of the next examination given under 37-43-305. On the applicant's successfully meeting the board's requirements on examination, the temporary license shall be returned to the department and a regular license issued. If the holder of a temporary license fails, after notice of the holding of an examination, to submit himself for examination or to meet the board's requirements, the temporary license expires and shall be returned to the department for cancellation."

Section 7. Section 37-43-305, MCA, is amended to read:

"37-43-305. Examination and qualifications. (1) Under rules pertaining to the business of drilling and contracting for drilling of water wells which the board adopts, the department shall~~, subject to 37-1-101(4),~~ inquire by

examination or otherwise into the qualifications of applicants for licenses to drill or make wells for the production of underground waters in this state. Examinations may be oral, written, or both. The qualifications required by the board are:

(a) familiar knowledge of groundwater laws of this state and sanitary standards for water well drilling and construction of water wells;

(b) knowledge of types of water well construction;

(c) knowledge of types of drilling tools and their uses;

(d) knowledge of underground geology in its relation to well construction;

(e) possession of adequate equipment by the applicant to complete satisfactory water wells under the standards of the board;

(f) financial responsibility of the applicant;

(g) successful completion of an examination given by the department; and

(h) the applicant must have completed a minimum of 1 year apprenticeship under the direct supervision of a licensed water well contractor.

(2) The department shall give examinations at times and places the board determines. Failure of an applicant to successfully complete the examination disqualifies him from

making further application for a period of 3 months. The board shall act within a reasonable time on applications for licenses. An application shall be accompanied by the initial fee, and failure to successfully meet the requirements of the board does not entitle the applicant to a refund of the fee."

Section 8. Section 37-43-306, MCA, is amended to read:

"37-43-306. Bond to be required. The department, on issuance of a contractor's license under this chapter, shall require, before the person commences operations in this state, a good and sufficient surety bond or in lieu thereof its equivalent in a certificate of deposit, cashier's check, bank draft, or certified check, to be approved by the board, in the penal sum of ~~$4,000~~ ~~$10,000~~ $4,000, conditioned that the licensee will comply with the rules of the board. ~~and reasonable--requirements--made--by--the-board-in--connection with-the-drilling-of-an--individual--well.~~ ~~The--bond--shall indemnify--the--property-owner-whenever-a-well-is-drilled-or constructed-against-such-damages-as-may-arise-as-a-result-of improper-drilling-or-construction--of--an--individual--well. Partial---or---complete--forfeiture--of--the--bond--must--be determined-by-the-appropriate-court-of-civil--jurisdiction.~~"

NEW SECTION. Section 9. Appropriation. There is appropriated from the general fund to the Department of Natural Resources and Conservation for the biennium ending

June 30, 1987, $13,000 to provide staff to assist the Board of Water Well Contractors in carrying out the provisions of this act.

NEW SECTION. Section 10. Repealer. Section 37-43-103, MCA, is repealed.

NEW SECTION. Section 11. Extension of authority. Any existing authority of the board of water well contractors to make rules on the subject of the provisions of this act is extended to the provisions of this act.

NEW SECTION. Section 12. Codification instruction. Section 2-15-1862 is intended to be renumbered and recodified as an integral part of Title 2, chapter 15, part 33.

NEW SECTION. Section 13. Effective date. This act is effective July 1, 1985.

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